



PA 18-183—sHB 5447
Education Committee

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
AUDITORS OF PUBLIC ACCOUNTS CONCERNING PRIVATE
PROVIDERS OF SPECIAL EDUCATION**

SUMMARY: This act requires, starting July 1, 2019, a local or regional board of education to have a written contract, instead of an agreement as under prior law, with a private special education provider in order to receive a state reimbursement grant for special education costs (known as the excess cost grant). Under the excess cost grant program, the state reimburses a board when the cost of a student's special education services exceeds four and a half times the average per pupil educational cost of that school district.

Under existing law, districts must follow certain requirements when they choose to enter into an agreement for private special education services. The act additionally requires such agreements to include an explanation of how the provider's tuition or costs for services provided are calculated. The act establishes the same requirement for any (1) agreement entered into or amended on or after July 1, 2018, but before June 30, 2019, and (2) contract entered into or amended on or after July 1, 2019.

The act also requires the State Department of Education (SDE) to develop standards and a process for documenting special education services provided by private providers that include the use of standard forms or other electronic reporting systems.

It also requires any private provider providing special education services for a local or regional board of education to annually submit its operating budget to SDE.

Lastly, the act also makes other minor, conforming, and technical changes.
EFFECTIVE DATE: July 1, 2018

§ 1 — CONTRACTS WITH SPECIAL EDUCATION PROVIDERS

The act prohibits a student's individualized education program from being considered a contract between a board of education and a private special education services provider for purposes of the excess cost grant.

It also specifies that the requirement to have a contract must not be construed to limit or interrupt the special education and related services provided to a student by a board or private provider.

§§ 2 & 3 — AUDITORS OF PUBLIC ACCOUNTS AND CONTRACTS

Under existing law, the auditors of public accounts have authority to audit and

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report on agreements between boards and private special education providers. The act extends this authority to include the contracts it requires in order to be eligible for the state reimbursement grant. Specifically, it:

1. requires boards that enter into these contracts to submit to an auditor examination of the board's student attendance monitoring at the provider's program to ensure that they are providing proper services and controlling costs;
2. authorizes the auditors to act as the board's agent to audit the private providers' records and accounts; and
3. requires the auditors to report their findings to the board of education that entered into the contract, the education commissioner, and the Education Committee.

§ 4 — DOCUMENTATION STANDARDS AND PROCESS FOR PRIVATE SPECIAL EDUCATION SERVICES

The act requires SDE to develop a process and standards for documenting special education services provided by private providers. The standards and process must include the use of standard forms or other electronic reporting systems that a private provider can use, as long as the forms or systems allow the provider to:

1. document the scope and type of services provided to an individual student on a daily, weekly, and monthly basis;
2. record the number of such services provided on a daily, weekly, and monthly basis; and
3. include, at a minimum, the student's name, the service being provided, the date and length of time the service was provided, and the provider's name and signature.

The department must consult with private special education services providers to develop the standards and process.

§ 5 — PROVIDER BUDGETS SUBMITTED TO SDE

Under the act, whenever any child is identified by a board of education as requiring special education and the board determines that the child's special education requirements could be met by a program provided by an agreement or a contract with a private special education services provider, the provider must submit its operating budget to SDE on or before October 1 of the school year in which the provider is providing the program. The private provider is not required to submit its operating budget more than once in a single school year and the requirement does not apply to the child's need for non-educational services (i.e., medical, psychiatric or institutional care or services).